UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE CARTOON NETWORK LP, LLLP and CABLE NEWS NETWORK LP, LLLP, Plaintiffs/Counterclaim-Defendants, v. CSC HOLDINGS, INC. and CABLEVISION SYSTEMS CORPORATION, Defendants/Counterclaim-Plaintiffs/ Third-Party Plaintiffs, v. TURNER BROADCASTING SYSTEM, INC., CABLE NEWS NETWORK LP, LLP, TURNER NETWORK SALES, INC., TURNER CLASSIC MOVIES, L.P., LLLP, TURNER NETWORK TELEVISION LP, LLLP, and THE CARTOON NETWORK LP, LLP, Third-Party Defendants.	06 Civ. 4092 (DC) **REPLY TO COUNTERCLAIMS AND ANSWER TO THIRD-PARTY COMPLAINT**

Plaintiffs and Counterclaim-Defendants, The Cartoon Network LP, LLLP ("TCN LP") and Cable News Network LP, LLLP ("CNN LP"), by and through their undersigned attorneys, for their reply to the counterclaims by CSC Holdings, Inc. and Cablevision Systems Corporation (collectively "Cablevision"), and Third-Party Defendants Turner Broadcasting System, Inc., Cable News Network LP, LLP, Turner Network Sales, Inc., Turner Classic Movies L.P., LLLP, and Turner Network Television LP, LLLP, The Cartoon Network LP, LLP,[1] for their answer to the third-party claims by Cablevision, aver as follows:

[1] Third-Party Defendant Cable News Network LP, LLP is formally known as Cable News Network LP, LLLP, a Plaintiff and Counterclaim-Defendant herein. Third-Party Defendant

1-50. That paragraphs 1-50 constitute Cablevision's answer to TCN LP and CNN LP's complaint, and require no reply.

51. *This is a counterclaim and third party claim for declaratory judgment under the copyright laws. Cablevision currently provides to its customers traditional set-top storage DVRs, which allow those customers to digitally record television programs for later personal use: a well-established fair use of copyrighted works. Cablevision recently announced its intent to deploy RS-DVR. With RS-DVR, programs recorded by the customer will be stored in his/her own dedicated computer memory at Cablevision's "head end," rather than in computer memory located inside the set-top box. Although this one technical change vis-à-vis traditional DVRs will have no impact on the private use and function of DVRs, counterclaim-defendants Cable News Network LP, LLLP ("CNN LLLP"), and The Cartoon Network, LP, LLLP ("TCN LLLP") (collectively, "Counterclaim Defendants"), and third party defendants Turner Broadcasting System, Inc. ("TBS"), Cable News Network LP, LLP ("CNN LLP"), Turner Network Sales, Inc. ("TNS, Inc."), Turner Classic Movies, L.P., LLLP ("Classics LP"), Turner Network Television LP, LLLP ("TNT LP"), and The Cartoon Network, LP, LLP ("TCN LLP") (collectively, "Third Party Claim Defendants") claim that by this change, Cablevision will somehow transform an accepted fair use under the copyright laws into a copyright violation. Counterclaim-Defendants have accordingly filed suit against Cablevision. Cablevision seeks this Court's judgment that its planned change will not subject it to direct copyright liability.*

51. Admit the allegations in the first sentence to the extent that Cablevision purports to assert a counterclaim and third-party claim for declaratory judgment under the copyright laws, but deny that Cablevision is entitled to any relief on those claims. State that the allegations set forth in the second sentence of paragraph 51 call for a legal conclusion and therefore require no response; to the extent a response is required, deny these allegations, except state that the Counterclaim Defendants and Third-Party Defendants (collectively "they") are without sufficient knowledge or information to form a belief as to the truth of the allegation that Cablevision currently provides to its customers traditional set-top storage DVRs, which allow those customers to digitally record television programs for later personal use. Deny the allegations set forth in the third sentence of paragraph 51, except admit that Cablevision has

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Turner Classic Movies L.P., LLLP is formally known as Turner Classic Movies LP, LLLP. Third-Party Defendant The Cartoon Network LP, LLP is formally known as The Cartoon Network LP, LLLP, a Plaintiff and Counterclaim-Defendant herein.

publicly announced its intent to deploy a service that it calls RS-DVR. Deny the allegations in the fourth sentence of paragraph 51, except state that they are without sufficient knowledge or information to form a belief as to the truth of the allegation that with the service that Cablevision calls RS-DVR, programs will be stored in dedicated computer memory at Cablevision's "head end", rather than in computer memory located inside the set-top box. State that the allegations set forth in the fifth sentence of paragraph 51 call for a legal conclusion and therefore require no response; to the extent a response is required, deny these allegations, except admit that Counterclaim Defendants CNN LP and TCN LP have claimed that Cablevision's prospective operation of the system that Cablevision calls RS-DVR will infringe on copyrights owned by CNN LP and TCN LP. Deny the allegations in the sixth sentence of paragraph 51, except admit that Counterclaim-Defendants CNN LP and TCN LP have filed suit against Cablevision. Deny the allegations in the seventh sentence of paragraph 51, except admit that Cablevision seeks by this action a declaratory judgment that its prospective offering, providing, maintaining and/or operating the service that Cablevision calls RS-DVR will not subject Cablevision to direct copyright liability, but deny that Cablevision is entitled to any relief on those claims.

52. *Counterclaim-Plaintiff Cablevision is a Delaware corporation with its principal place of business in Bethpage, New York. Cablevision provides cable television to customers in the New York metropolitan area, including portions of New York, New Jersey, Pennsylvania and Connecticut.*

52. State that they are without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 52, except admit that Cablevision provides cable television to customers in the New York metropolitan area and admit, on information and belief, that CSC Holdings, Inc. and Cablevision Systems Corporation are Delaware corporations, each with its principal place of business in Bethpage, New York.

53. *Upon information and belief, Third Party Claim Defendant TBS is a Georgia corporation with principal places of business in New York, New York and Atlanta,*

Georgia. TBS is the parent corporation of Defendants CNN LLP, CNN LLLP, TNS, Inc., Classics LP, TNT, LP, TCN LLLP, and TCN LLP.

53. Deny the allegations set forth in the first sentence of paragraph 53, except admit that Turner Broadcasting System, Inc. is a Georgia corporation with its principal place of business in Atlanta, Georgia. Deny the allegations set forth in the second sentence of paragraph 53, except admit that each of the Counterclaim-Defendants and Third-Party Defendants, as they are formally known, is a direct or indirect subsidiary of Turner Broadcasting System, Inc.

54. *Upon information and belief, Counterclaim Defendant CNN LLLP is a Delaware Limited Partnership with principal places of business in New York, New York and Atlanta, Georgia. Similarly, upon information and belief, Third Party Claim Defendant CNN LLP is a subsidiary of TBS and a Delaware Limited Partnership with principal places of business in New York, New York and Atlanta, Georgia. Upon information and belief, CNN LLLP and CNN LLP transmit satellite delivered cable television programming services, which are carried on Cablevision's cable television system in New York.*

54. Deny the allegations set forth in paragraph 54, except admit that Counterclaim Defendant CNN LP is a Delaware Limited Liability Limited Partnership with its principal place of business in Atlanta, Georgia, that CNN LP is an indirect subsidiary of Turner Broadcasting System, Inc., and that CNN LP produces, creates and licenses several networks of programming distributed in the United States, which, pursuant to a license agreement, are carried on Cablevision's cable television system in New York, and further state that Third-Party Defendant Cable News Network LP, LLP is formally known as Cable News Network LP, LLLP.

55. *Upon information and belief, Third Party Claim Defendant TNS, Inc. is a subsidiary of TBS and a Georgia corporation with principal places of business in New York, New York and Atlanta, Georgia. TNS, Inc. distributes the programming of television station WTBS video programming service known as the "TBS Superstation." TNS, Inc.'s programming is carried by Cablevision's cable television system in New York.*

55. Deny the allegations set forth in the first sentence of paragraph 55, except admit that Third-Party Defendant Turner Network Sales, Inc. is a Georgia corporation with its

principal place of business in Atlanta, Georgia, and is a subsidiary of Turner Broadcasting System, Inc. Deny the allegations set forth in the second sentence of paragraph 55, except admit that Turner Network Sales, Inc. licenses certain Turner Broadcasting System, Inc. television networks and other programming, including the network currently branded as TBS and authorizes distribution of WTBS within the Atlanta designated market. Deny the allegations in the third sentence of paragraph 55, except admit that the Turner Network Sales, Inc. licenses certain Turner Broadcasting System, Inc. networks for distribution by Cablevision's cable television system in New York

56. *Upon information and belief, Third Party Claim Defendant Classics LP is a subsidiary of TBS and a Delaware Limited Partnership with its principal place of business in New York, New York. Classics LP transmits video programming service known as Turner Classic Movies, which is carried by Cablevision's cable television system in New York.*

56. Deny the allegations set forth in the first sentence of paragraph 56, except admit that Third-Party Defendant Turner Classic Movies LP, LLLP (as Turner Classic Movies, L.P., LLLP is formally known) is a Delaware Limited Liability Limited Partnership with its principal place of business in Atlanta, Georgia, and is an indirect subsidiary of Turner Broadcasting System, Inc. Deny the allegations set forth in the second sentence of paragraph 56, except admit that Turner Classic Movies LP, LLLP produces, creates and licenses a network of programming distributed in the United States as Turner Classic Movies, which, pursuant to a license agreement, is carried by Cablevision's cable television system in New York.

57. *Upon information and belief, Third Party Claim Defendant TNT LP is a subsidiary of TBS and a Delaware Limited Partnership with its headquarters in New York, New York. TNT LP transmits a programming service that generally consists of movies, dramatic shows, situation comedies, game shows, live professional sports, children's programming, special features, and entertainment programming. This programming service is carried by Cablevision's cable television system in New York.*

57. Deny the allegations set forth in the first sentence of paragraph 57, except admit that Third-Party Defendant Turner Network Television LP, LLLP is a Delaware Limited

Liability Limited Partnership with its principal place of business in Atlanta, Georgia, and is an indirect subsidiary of Turner Broadcasting System, Inc. Deny the allegations set forth in the second sentence of paragraph 57, except admit that Turner Network Television LP, LLLP produces, creates and licenses a network of programming distributed in the United States as Turner Network Television consisting of movies, dramatic shows, situation comedies, game shows and live professional sports. Deny the allegations set forth in the third sentence of paragraph 57, except admit that the Turner Network Television network, pursuant to a license agreement, is carried by Cablevision's cable television system in New York.

58. *Upon information and belief, Counterclaim Defendant TCN LLLP is a Delaware Limited Partnership with principal places of business in New York, New York and Atlanta, Georgia. Similarly, upon information and belief, Third Party-Defendant TCN LLP is a Delaware Limited Partnership with principal places of business in New York, New York and Atlanta, Georgia. Upon information and belief, TCN LLLP and TCN LLP transmit the programming service known as the Cartoon Network, which is carried by Cablevision's cable television system in New York.*

58. Deny the allegations set forth in paragraph 58, except admit that Counterclaim Defendant TCN LP is a Delaware Limited Liability Limited Partnership with its principal place of business in Atlanta, Georgia, and TCN LP produces, creates and licenses a network of programming distributed in the United States as the Cartoon Network, which is, pursuant to a license agreement, carried on Cablevision's cable television system in New York, and further state that Third-Party Defendant The Cartoon Network LP, LLP is formally known as The Cartoon Network LP, LLLP.

59. *This is an action for declaratory judgment pursuant to 28 U.S.C. § 2201 and Fed. R. Civ. P. 57 seeking a declaration of the rights and/or other legal relations of the parties to this litigation with respect to an actual controversy arising under the copyright laws of the United States, 17 U.S.C. § 101 et seq.*

59. Admit the allegation set forth in paragraph 59 that Cablevision purports to assert a counterclaim and third-party claim for declaratory judgment, but deny that Cablevision is entitled to any relief on those claims.

60. *This Court has exclusive jurisdiction over the copyright subject matter of this action pursuant to the Copyright Act (17 U.S.C. § 101 et seq.), 28 U.S.C. §§ 1331, 1338, and the Declaratory Judgment Act (28 U.S.C. § 2201).*

60. Deny the allegations set forth in paragraph 60, except admit that this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

61. *Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(a).*

61. Admit the allegations set forth in paragraph 61.

62. *Ever since the Supreme Court's landmark decision in Sony, it has been accepted that the use of a personal video recorder (whether a Betamax, a VCR, or a traditional set-top storage DVR) to copy television programming for later personal viewing is a fair use that does not violate the copyright laws.*

62. State that the allegations set forth in paragraph 62 call for a legal conclusion and therefore require no response; to the extent a response is required, deny these allegations.

63. *In 1999, the first DVR was introduced. Traditional set-top storage DVRs use a computer hard-disk drive and other digital technology to allow consumers to record television programming and play it back later, just as they have been doing with VCRs and Sony Betamaxes for more than twenty years.*

63. Admit, on information and belief, the allegations in the first sentence of paragraph 63. Deny the allegations set forth in the second sentence of paragraph 63, except admit that, currently, digital video recorders ("DVRs") use a computer hard-disk drive and other digital technology to enable consumers to record television programming and play it back later.

64. *Cablevision has been providing traditional set-top storage DVRs to its customers since November 2004. Cablevision's customers pay a monthly fee to obtain and operate the DVR.*

64. State they are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 64.

65. *The DVR, like a VCR, is physically connected to the consumer's television set. However, unlike a VCR, a DVR must also be connected to an electronic program guide, populated by the DVR provider, that catalogues all television broadcasts available to that consumer. The consumer accesses the program guide through his or her remote control and is thus able to record any program available to him or her at a given time.*

65. Deny the allegations set forth in paragraph 65, except admit that a digital video recorder ("DVR") and a VCR can be physically connected to a consumer's television set, that a DVR can be connected to an electronic program guide, and that consumers can access electronic program guides through their remote controls.

66. *By selecting a program for recording, the customer uses the DVR to copy it (either in real time if the program is currently airing, or at the later time when the program airs) onto the hard drive of the consumer's in-home set-top DVR box, where it remains stored until deleted.*

66. Admit the allegations set forth in paragraph 66.

67. *The traditional set-top storage DVR's recording ability is limited by the size of its hard drive; once the space on the hard drive is filled, the DVR will not record any new programs unless old ones are deleted.*

67. Admit the allegations set forth in paragraph 67.

68. *As with the transition from the Betamax to VCRs, the transition from VCRs to DVRs altered the specific technology of in-home television recording; however, the DVR, like the VCR and the Betamax before it, remains a time-shifting device that facilitates fair use. Indeed, there appears to be a general consensus in the television and film industries that DVRs do not violate the Copyright Act. Based on this consensus, DVR use and distribution has grown rapidly over the past six years, rising to approximately 8% of all American households in 2005. Some analysts expect that more than 25% of televisions will be equipped with DVRs by 2007.*

68. State that the allegations set forth in the first sentence of paragraph 68 call for a legal conclusion and therefore require no response; to the extent that a response is required, deny these allegations. State that they are without knowledge or information sufficient to form a

belief as to the truth of the allegations set forth in the second, third, and fourth sentences of paragraph 68.

69. *Although the decision in Sony addressed fair use in the context of the Sony Betamax videotape recorder, the language of the decision makes clear that a consumer's recording for time-shifting in general constitutes a fair use. Indeed, the decision is so well accepted that, as technology has progressed from VCRs to DVRs, no legal action has been brought in which a content owner has challenged the fundamental principle that time-shifting using such devices is a non-infringing fair use.*

69. State that the allegations set forth in the first sentence of paragraph 69 call for a legal conclusion and therefore require no response; to the extent a response is required, deny these allegations. Deny the second sentence of paragraph 69.

70. *None of the Counterclaim Defendants or Third Party Claim Defendants has objected to Cablevision's provision of DVRs in the 18 months since Cablevision began providing this product to its customers.*

70. Deny the allegations set forth in paragraph 70 to the extent that Cablevision has defined the service that it calls RS-DVR as a digital video recorder ("DVR") and state that they are without knowledge or information sufficient to form a belief as to the truth of the allegation that Cablevision began providing DVRs to customers 18 months ago.

71. *On March 27, 2006, Cablevision announced its new DVR offering, RS-DVR, whereby the storage space that Cablevision provides to its customers will be located at Cablevision's facilities, rather than on the hard drives of traditional set-top storage DVR boxes. The provided storage space will simply be in a different location. The RS-DVR is identical to the traditional set-top storage DVR in almost all respects. The physical relocation of computer memory from within the DVR set-top box to Cablevision's facilities as part of RS-DVR will not affect how customers operate the DVR device.*

71. Deny the allegations set forth in the first sentence of paragraph 71, except admit that in or around March 2006, Cablevision announced the service that it calls RS-DVR, and admit, on information and belief, that in the service that Cablevision calls RS-DVR, Cablevision will store unauthorized copies on its servers, located at the "head-end" (Cablevision's central facility for receiving television signals for transmission over a cable

television system), and will transmit this stored programming to its subscribers in the same way as it transmits its On Demand service. Deny the allegations set forth in the second, third and fourth sentences of paragraph 71.

72. *Specifically, from a customer's perspective, the RS-DVR will function just like a traditional set-top storage DVR:*

a. *the customer must give the command from his or her remote control to record a program in his or her memory space;*

b. *each customer creates a separate and distinct copy of each program he or she records;*

c. *the customer's programs are stored in his or her own dedicated memory;*

d. *only the customer and those within his or her household have the ability to play the unique copy of the programs he or she has recorded, and customers will not be able to access or play programs that other customers have recorded;*

e. *the viewing must take place in the customer's home; and,*

f. *once the customer decides to erase his or her copy of a program, that copy ceases to exist.*

72. State that they are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 72.

73. *Whether a customer utilizes a traditional set-top storage DVR or the RS-DVR, it is the customer who copies and plays back the recorded programming.*

73. Deny the allegations set forth in paragraph 73.

74. *With its traditional set-top storage DVRs, Cablevision provides the customer with a Cablevision-owned, hard-drive set-top box for the customer's use in recording programming for later viewing. With RS-DVR, Cablevision provides the customer with his/her own dedicated storage on Cablevision-owned servers for the same customer use. Thus, with RS-DVR and its traditional set-top storage DVRs alike, Cablevision does no more than provide the customer with a Cablevision machine, including dedicated computer memory, to facilitate the customer's fair use.*

74. State that they are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the first and second sentences of paragraph 74. Deny the allegations set forth in the third sentence of paragraph 74.

75. *The storage capacity of the RS-DVR for each customer will be less than or equal to that currently offered in Cablevision's traditional set-top storage DVRs and many other in-home set-top storage DVRs.*

75. State that they are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 75.

76. *The RS-DVR will permit the customer to make no greater use of the recording than is enabled by traditional set-top storage DVRs already in use. Specifically, the RS-DVR will not contain a feature that enables customers to send programs via the Internet, will not strip commercials from programs that the customer records, and will not allow for automatic commercial skipping.*

76. State that they are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 76.

77. *Like traditional set-top storage DVRs, Cablevision's RS-DVR is not a VOD service. DVRs (including the RS-DVR) allow customers to record and time-shift programming that is, in the first instance, available to them as part of the cable service for which they have already paid. The customer decides which programs to record and must create the copy himself or herself by scheduling his or her own individual recording to take place at the actual time of the original telecast in order to have the ability to view his or her own copy of the programming at a later time. This is the time-shifting specifically authorized by the Supreme Court in Sony.*

77. Deny the allegations set forth in the first sentence of paragraph 77. Deny the allegations set forth in the second sentence of paragraph 77, except admit that digital video recorders ("DVRs") enable recording of television programming. Deny the allegations set forth in the third sentence of paragraph 77 with respect to the service Cablevision calls RS-DVR, and state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the third sentence of paragraph 77 with respect to DVRs, except admit that with a DVR the customer makes the copy himself or herself and has the ability to view his or her own copy of the programming at a later time. State that the allegations set forth in the

fourth sentence of paragraph 77 call for a legal conclusion and therefore require no response; to the extent a response is required, deny these allegations.

78. *By contrast, programs offered through a VOD service are chosen and assembled by the cable provider, rather than being selected and time-shifted by the customer. Moreover, with VOD, the cable operator typically acquires a single copy of a program, makes and stores a small number of copies of this program on its VOD servers without any initiation from any customer, and makes these limited common copies available for repeated viewing by all of its VOD customers on an "on demand" basis. Thus, when a customer retrieves a program using VOD, the customer is not retrieving his or her own separate copy that the customer made for later viewing; rather, the customer is viewing the cable provider's shared copy that is made available for viewing by multiple customers at any time during the VOD offering of the particular program.*

78. Deny the allegations set forth in the first sentence of paragraph 78. State that they are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the second and third sentences of paragraph 78, except admit that Video On Demand programming is available on an "on demand" basis.

79. *Whether a customer utilizes a traditional set-top storage DVR or the RS-DVR, Cablevision does not transmit shared copies of programs to multiple customers. Rather, each customer retrieves and plays his or her own unique copy that he or she recorded, which copy is retrievable and viewable only by the customer who recorded it.*

79. State that they are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the first sentence of paragraph 79. Deny the allegations set forth in the second sentence of paragraph 79, except admit that with a DVR the customer makes the copy himself or herself and has the ability to view his or her own copy of the programming at a later time, and state they are without knowledge or information sufficient to form a belief as to the truth of the allegation that each customer of the service that Cablevision calls RS-DVR views his or her own unique copy of programming.

80. *Cablevision expects that the costs of providing remote storage will be less than the costs of providing set-top DVRs with local storage and that those cost reductions will result in price reductions for Cablevision's customers.*

80. State that they are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 80.

81. *On or about March 27, 2006, Cablevision issued a press release describing its plan to perform a trial of the RS-DVR in June 2006.*

81. State that they are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 81, except to admit that in or about March 2006 Cablevision publicly announced its intent to perform a trial of the service that Cablevision calls RS-DVR.

82. *Prior to its official press release, on March 21, 2006, Cablevision sent a letter to many of the television programmers with which it has programming agreements (including Counterclaim and Third Party Claim Defendants) that enclosed the planned March 27 press release and provided information concerning the RS-DVR and the scheduled trial.*

82. State that they are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 82, except admit that on or about March 21, 2006, Cablevision sent a letter addressed to Turner Network Sales, Inc., stating that Cablevision intended to perform a trial of the service that it calls RS-DVR and providing certain information regarding that service.

83. *By letter dated May 10, 2006 (the "TBS Letter"), Executive Vice President and General Counsel for TBS, on behalf of the Counterclaim and Third Party Claim Defendants, notified Cablevision of TBS's position that Cablevision's implementation of its RS-DVR, even on a trial basis, "would be illegal under the Copyright laws." The letter went on to threaten that Turner Broadcasting Systems, "reserve[d] all rights to seek any equitable or legal remedies available."*

83. Deny the allegations set forth in paragraph 83, except state that the letter referenced in paragraph 83, which is exhibit D to TCN LP's and CNN LP's original complaint, speaks for itself.

84. *Counterclaim Defendants TCN LLLP and CNN LLLP have brought suit against Cablevision claiming that its RS-DVR will infringe their exclusive rights under the Copyright Act.*

84. Admit the allegations set forth in paragraph 84.

85. *Cablevision's RS-DVR is developed and ready for implementation.*

85. State that they are without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 85, except admit that Cablevision has taken meaningful preparatory steps to launch the service that it calls RS-DVR and that Cablevision has announced that it is prepared to commence the service that it calls RS-DVR.

86. *Because it has been established for more than two decades that recording television programming for private, in-home playback constitutes fair use, and because nothing about the RS-DVR will alter the manner in which customers record and watch television programming, Cablevision seeks a declaratory judgment that its planned distribution of its RS-DVR will not subject it to direct liability under the Copyright Act.*

86. State that the allegations set forth in paragraph 86 call for a legal conclusion and therefore require no response; to the extent a response is required, deny these allegations, except admit that Cablevision seeks by this action a declaratory judgment that its prospective offering, providing, maintaining and/or operating the service that Cablevision calls RS-DVR will not subject Cablevision to direct liability under the Copyright Act, but deny that Cablevision is entitled to any relief on those claims.

CLAIMS FOR RELIEF

87. *Cablevision repeats and realleges the allegations set forth in paragraphs 51 - 87 herein.*

87. Repeat and incorporate by reference their responses to paragraphs 51-87.

88. *As described above, there exists an actual and justiciable controversy between Cablevision and Counterclaim and Third Party Claim Defendants as to whether Cablevision's provision of its RS-DVR will subject Cablevision to direct liability for copyright infringement.*

88. Admit the allegations set forth in paragraph 88.

89. *Counterclaim and Third Party Claim Defendants do not claim that Cablevision's offering, providing, maintaining and/or operating its traditional set-top storage DVRs subjects it to indirect liability for infringing their copyrights.*

89. Deny the allegations set forth in paragraph 89, except admit that Counterclaim Defendants and Third-Party Defendants do not claim in this lawsuit that Cablevision's prospective offering, providing, maintaining and/or operating its traditional set-top storage DVR subjects it to indirect liability for infringing their copyrights.

90. *Instead, Counterclaim and Third Party Claim Defendants claim that Cablevision's offering, providing, maintaining and/or operating its RS-DVR product will subject Cablevision to direct liability for infringing Counterclaim and Third Party Claim Defendants' copyrights.*

90. Deny the allegations set forth in paragraph 90, except admit that Counterclaim Defendants claim that Cablevision's prospective offering, providing, maintaining and/or operating the service that Cablevision calls RS-DVR will subject Cablevision to direct liability for infringing on copyrights owned by the Counterclaim Defendants.

91. *Cablevision seeks a declaratory judgment pursuant to 28 U.S.C. § 2201 and Fed. R. Civ. P. 57 that its offering, providing, maintaining and/or operating its RS-DVR product will not subject it to direct liability for infringing any of Counterclaim and/or Third Party Claim Defendants' copyrights.*

91. Admit that Cablevision purports to assert a counterclaim and third-party claim for declaratory judgment, but deny that Cablevision is entitled to any relief on those claims.

July 10, 2006

CRAVATH, SWAINE & MOORE LLP,

by [signature]

Katherine B. Forrest (KF-1979)
Antony L. Ryan (AR-0394)
Members of the Firm

Worldwide Plaza
825 Eighth Avenue
New York, NY 10019
(212) 474-1000

Attorneys for Plaintiffs and Counterclaim-Defendants The Cartoon Network LP, LLLP and Cable News Network LP, LLLP, and Third-Party Defendants Turner Broadcasting System, Inc., Turner Network Sales, Inc., Turner Classic Movies LP, LLLP and Turner Network Television LP, LLLP.